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In re Application of ARMBRUSTER et al

U.S. Application No.: 09/720,338

Int. Application No.: PCT/EP99/04418

Int. Filing Date: 25 June 1999

Priority Date: 25 June 1998

Attorney Docket No.: 0756-0118P

For: FUNCTIONAL VITAMIN D DERIVATIVES
AND A METHOD FOR DETERMINING
25-HYDROXY-VITAMIN D AND
1 α ,25-DIHYDROXY-VITAMIN D

DECISION ON PETITION

UNDER 37 CFR 1.182

This is in response to applicants' "Renewed Petition under 37 C.F.R. § 1.182)" filed
26 September 2001.

BACKGROUND

On 25 June 1999, applicants filed international application PCT/EP99/04418, which claimed priority of an earlier Germany application filed 25 June 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 29 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 19 January 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 25 December 2000.

On 22 December 2000, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 15 February 2001, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 20 February 2001, applicants filed four executed declarations.

On 21 March 2001, the DO/EO/US mailed a Notification of a Defective Response (Form PCT/DO/EO/916) indicating that the declarations filed on 15 February 2001 are not in compliance with 37 CFR 1.497.

On 27 April 2001, applicants filed a petition under 37 CFR 1.182, which stated that the name of the third inventor has changed from Jens Schwing to Jens Tampe. The petition further stated that it is accompanied by a certified copy of the court order whereby the purported name change was effected.

On 26 July 2001, the PCT Legal Office of the USPTO mailed a decision dismissing the 27 April 2001 petition on grounds that the copy of the purported court order is not an original certified document.

On 26 September 2001, applicants filed the present renewed petition along with an affidavit signed by Jens Schwing and Jens Tampe.

DISCUSSION

MPEP 605.04(c) states in relevant part,

In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. . . . The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

In the present case, applicants have submitted an affidavit signed with both names, Jens Schwing and Jens Tampe, setting forth that Jens Schwing has changed his name to Jens Tampe and setting forth the procedure by which the name change was effected. The appropriate petition fee has been received.

The papers have been reviewed, and the 20 February 2001 declaration signed by Jens Tampe is accepted.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

The Notification of a Defective Response (Form PCT/DO/EO/916) mailed 21 March 2001 is hereby VACATED.

The application has an International Filing Date of 25 June 1999 and a date under 35 U.S.C. 371 of 20 February 2001.

The application will be forwarded to the DO/EO/US for processing in accordance with this decision.



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